IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

W.A.No.1949 of 2007

AGAINST THE INTERIM ORDER IN W.P.(C).NO.18755/2007 DATED 02/08/2007

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APPELLANTS: PETITIONERS:-

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1. NASEEMA, AGED 24 YEARS,
   B.Ed. STUDENT, B.Ed.CENTRE,
   INDU MEMORIAL TEACHER TRAINING CENTRE,
   (GUARDS B.Ed. COLLEGE),
   KUZHALMANNAM P.O. - PALAKKAD DISTRICT.

2. REENA P., AGED 22 YEARS,
   D/O.PARAMESWARN, B.Ed. STUDENT, B.Ed. CENTRE,
   INDU MEMORIAL TEACHER TRAINING CENTRE,
   (GUARDS B.Ed. COLLEGE),
   KUZHALMANNAM P.O. - PALAKKAD DISTRICT.

3. SHEEBA, AGED 28 YEARS, W/O.SUJI,
   B.Ed. STUDENT, B.Ed.CENTRE,
   INDU MEMORIAL TEACHER TRAINING CENTRE,
   (GUARDS B.Ed. COLLEGE),
   KUZHALMANNAM P.O. - PALAKKAD DISTRICT.

4. ANITHA C.V., AGED 28 YEARS,
   B.Ed. STUDENT, B.Ed.CENTRE,
   INDU MEMORIAL TEACHER TRAINING CENTRE,
   (GUARDS B.Ed. COLLEGE),
   KUZHALMANNAM P.O. - PALAKKAD DISTRICT.

5. BINU A., AGED 22 YEARS,
   B.Ed. STUDENT, B.Ed.CENTRE,
   INDU MEMORIAL TEACHER TRAINING CENTRE,
   (GUARDS B.Ed. COLLEGE),
   KUZHALMANNAM P.O. - PALAKKAD DISTRICT.

BY ADV. SRI.SIVAN MADATHIL

RESPONDENTS/RESPONDENTS:-

1. CALICUT UNIVERSITY,
   REPRESENTED BY ITS REGISTRAR,
   UNIVERSITY P.O., THENHIPALAM, MALAPPURAM DISTRICT.

2. THE VICE CHANCELLOR,
   CALICUT UNIVERSITY, UNIVERSITY P.O.,
   THENHIPALAM, MALAPPURAM DISTRICT.

3. NATIONAL COUNCIL FOR TEACHER EDUCATION (NCTE),
   (STATUTORY BODY OF THE GOVERNMENT OF INDIA),
   SOUTHERN REGIONAL COMMITTEE, BANGALORE.

4. STATE OF KERALA, REPRESENTED BY SECRETARY TO HIGHER EDUCATION,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

5. THE MANAGER/PRESIDENT,
   INDU MEMORIAL TEACHER TRAINING CENTRE,
   (GUARDS - GARRISON URBAN AND RURAL DEVELOPMENT SOCIETY),
   B.Ed. CENTRE, KOLLANCODE, PALAKKAD DISTRICT.

R1 & R2 BY STANDING COUNSEL SRI.P.C.SASIDHARAN.
R4 BY SENIOR GOVERNMENT PLEADER SMT.MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

H.L.Dattu,C.J. & K.T.Sankaran,J.

W.A.No.1949 of 2007

Dated, this the 7th day of August, 2007

JUDGMENT

H.L.Dattu,C.J.

Appellants-petitioners are B.Ed. students of the 5th respondent-College. They have joined the B.Ed. course in the 5th respondent College commencing from the academic year 2006-07. According to them, since the National Council for Teacher Education ("NCTE" for short) has granted permission to the 5th respondent College, the University is bound to permit the petitioners to appear for the ensuing examination which is scheduled to be held from 18th August, 2007.

2. Before we answer the contention canvassed by learned counsel for the appellants, let me first notice the genesis of the present proceedings.

3. Since the petitioners were not permitted to appear for the annual examination which is scheduled to be held during this month by respondent-University, the petitioners have filed a representation, dated 15.6.2007, before the Vice Chancellor of the University. In the said representation, they have stated as under:

> "Recently when the guardians and the students made an enquiry in the University, it is found that this college is not affiliated to the University. This information has created a lot of mental agony to the students. The last date for the remittance of the examination fee with fine to the University is on 22.6.2007. In these circumstances your kind consideration and immediate action to issue orders granting permission to the students for writing

examination is humbly prayed for. Your kind attention is also requested for taking necessary action for the grant of affiliation to the institution".

4. Even according to the petitioners, the 5th respondent College is not yet affiliated to the respondent-University.

5. After filing the representation dated 15.6.2007 and even before the Vice Chancellor could react to the representation so made, the petitioners have approached this Court by filing W.P.(C).No.18755 of 2007. The prayers in the writ petition are as under:

(i) Issue a writ of mandamus or any other appropriate writ, order or direction to the first and second respondents to take immediate steps to accept the application of the petitioners to appear for forthcoming B.Ed. Examination before the expiry of the last date for receiving the application with fine i.e., 22.6.2007.

(ii) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the first and second respondent to grant affiliation of the Institution of the 5th respondent to start B.Ed. Training Centre".

6. By way of interim relief, the petitioners have requested this Court to direct the first and second respondents to accept the application of the petitioners to appear for the forthcoming B.Ed. Examination before the expiry of the last date for receiving the application with fine, i.e., 22.6.2007.

7. The learned Single Judge while considering the request of the petitioners for grant of interim relief has observed only as under:

> "Pendency of this Writ Petition would not stand on the way of Vice Chancellor or the Syndicate in considering any representation which may be filed by the students or the manager as sympathetically as possible".

8. Aggrieved by the said interim order passed by the learned Single Judge, the petitioners in the writ petition are before us in this appeal.

9. In so far as the second prayer sought in the writ petition is concerned, the appellants themselves have produced a copy of the counter affidavit filed by the University in W.P.(C).No.11019 of 2007, which is a writ petition filed by the 5th respondent College. In that counter affidavit, it is stated that the request of the 5th respondent to start the B.Ed. Training Centre is rejected by the University for various reasons. The said writ petition is still pending before this Court. Therefore, it may be inappropriate in these proceedings filed by the students of the College to express our views on the second prayer sought for by the petitioners. Therefore, we refrain from expressing our views on the second prayer, though the learned counsel for the appellant tried his best to persuade us to express our views on the second prayer in the Writ Petition. We only observe that the the students studying in the 5th respondent College cannot be spokesmen for the College. The College being aggrieved by the actions/inaction of the University has already filed a writ petition and the same is pending consideration. The very same cause of action which the College is agitating, cannot be agitated by the students of the College.

10. In so far as the second relief is concerned, the 5th respondent College is not yet affiliated to the University. That only means, the appellants have prosecuted their B.Ed. Course in a College which is not yet

affiliated to the University. This Court in a writ petition cannot be directing the University to permit the students, who have studied in an unrecognised College, to appear for the examination. Time and again the apex Court has frowned upon the Courts in directing the Universities to accept the applications of the students who have studied in a non-recognised institution. In view of the above settled legal position, even the first relief sought for by the appellants-petitioners cannot be granted by this Court. Even otherwise also, the learned Single Judge has only directed the Vice Chancellor or the Syndicate of the University to consider the representation filed by the students of the College. A harmless interim order passed by the learned Single Judge cannot be a subject matter in a Writ Appeal proceedings. In that view of the matter, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/DK.